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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO-OAKLAND DIVISION**

SIERRA CLUB and SOUTHERN BORDER  
COMMUNITIES COALITION,

Case No.: 4:19-cv-00892-HSG

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the United  
States, in his official capacity; PATRICK M.  
SHANAHAN, Acting Secretary of Defense, in his  
official capacity; KIRSTJEN M. NIELSEN,  
Secretary of Homeland Security, in her official  
capacity; and STEVEN MNUCHIN, Secretary of  
the Treasury, in his official capacity,

**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

*Defendants.*

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19 **REQUEST FOR JUDICIAL NOTICE**

20 Plaintiff Sierra Club and Plaintiff Southern Border Communities Coalition (collectively,  
21 “Plaintiffs”) hereby respectfully request, pursuant to Federal Rule of Evidence 201, that the Court  
22 take judicial notice of the following materials in support of Plaintiffs’ Motion for Preliminary  
23 Injunction.

24  
25 1. Attached hereto as **Exhibit A** is a true and correct copy of a Letter from Acting  
26 Director of the Office of Budget and Management Russell T. Vought to the Honorable Richard

1 Shelby, Chairman of the Senate Committee on Appropriations, dated January 6, 2019.

2 <https://www.whitehouse.gov/wp-content/uploads/2019/01/Final-Shelby-1-6-19.pdf>.

3       2. Attached hereto as **Exhibit B** is a true and correct copy of a tweet from President  
4 Donald J. Trump, dated January 30, 2019, 3:49 AM, available on President Trump's official Twitter  
5 account, @realDonaldTrump,

6 <https://twitter.com/realdonaldtrump/status/1090577726459838464?lang=en>.

7       3. Attached hereto as **Exhibit C** is a true and correct copy of a tweet from President  
8 Donald J. Trump, dated February 9, 2019, 2:02 PM, available on President Trump's official Twitter  
9 account, @realDonaldTrump, <https://twitter.com/realDonaldTrump/status/1094355899194454017>.

10       4. Attached hereto as **Exhibit D** is a true and correct copy of the "Presidential  
11 Proclamation on Declaring a National Emergency Concerning the Southern Border of the United  
12 States," dated February 15, 2019, and available on the White House official website at  
13 <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-declaring-national-emergency-concerning-southern-border-united-states/>.

14       5. Attached hereto as **Exhibit E** is a true and correct copy of a transcript of "Remarks by  
15 President Trump on the National Security and Humanitarian Crisis on our Southern Border," dated  
16 February 15, 2019, and available on the White House official website at  
17 <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-national-security-humanitarian-crisis-southern-border/>.

18       6. Attached hereto as **Exhibit F** is a true and correct copy of a transcript of "Remarks by  
19 President Trump in Cabinet Meeting," dated February 12, 2019, and available on the White House  
20 official website at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-cabinet-meeting-13/>.

1           7. Attached hereto as **Exhibit G** is a true and correct copy of the “Fact Sheet” entitled  
2 “President Donald J. Trump’s Border Security Victory,” dated February 15, 2019, and available on  
3 the White House official website at <https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-border-security-victory/>.  
4

5           8. Attached hereto as **Exhibit H** is a true and correct copy of a Letter from David F.  
6 Eisner, Assistant Secretary for Management of the Department of Treasury, to Ranking Members of  
7 the Senate and House Committees and Subcommittees on Appropriations, dated February 15, 2019.  
8 The letter attaches a document titled “Treasury Forfeiture Fund FY2019 Strategic Support Funding.”  
9

10          9. Attached hereto as **Exhibit I** is a true and correct copy of a Memorandum for Captain  
11 Hallock N. Mohler Jr., Executive Secretary of the Department of Defense, from Christina Bobb,  
12 Executive Secretary of the Department of Homeland Security, regarding “Request for Assistance  
13 Pursuant to 10 U.S.C. § 284,” dated February 25, 2019.  
14

15          10. Attached hereto as **Exhibit J** is a true and correct copy of a tweet from President  
16 Donald J. Trump, dated March 8, 2019, 4:24 AM, available on President Trump’s official Twitter  
17 account, @realDonaldTrump, <https://twitter.com/realdonaldtrump/status/1103994805477085186>.  
18

19          11. Attached hereto as **Exhibit K** is a true and correct copy of a tweet from President  
20 Donald J. Trump, dated March 9, 2019, 2:04 PM, available on President Trump’s official Twitter  
21 account, @realDonaldTrump, <https://twitter.com/realdonaldtrump/status/1104503216111321089>  
22 (“major sections being built”).  
23

24          12. Attached hereto as **Exhibit L** is a true and correct copy of a tweet from President  
25 Donald J. Trump, dated March 9, 2019, 2:13 PM, available on President Trump’s official Twitter  
26 account, @realDonaldTrump, <https://twitter.com/realdonaldtrump/status/1104505623293710337>.  
27

28          13. Attached hereto as **Exhibit M** is a true and correct copy of a Letter from Senators  
Patrick Leahy, Richard J. Durbin, and Brian Schatz to the Honorable Gene Dodaro, Comptroller  
28

1 General of the United States, dated March 11, 2019, available on Senator Durbin's official website at  
2 <https://www.durbin.senate.gov/imo/media/doc/190311%20GAO%20reprogramming%20wall%20letter%20FINAL.pdf>.  
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4           14. Attached hereto as **Exhibit N** is a true and correct copy of an excerpt from the  
5 Department of Defense Fiscal Year 2020 Budget Request, dated March 12, 2019, available on the  
6 official Department of Defense website at  
7 [https://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2020/fy2020\\_Budget\\_Request\\_Overview\\_Book.pdf](https://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2020/fy2020_Budget_Request_Overview_Book.pdf).  
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9           15. Attached hereto as **Exhibit O** is a true and correct copy of a Letter from Patrick M.  
10 Shanahan, Acting Secretary of Defense, to the Honorable Kirstjen Nielsen, Secretary of Homeland  
11 Security, dated March 25, 2019. The letter attaches a notice entitled "Support for DHS Counter-Drug  
12 Activity Reprogramming Action."  
13

14           16. Attached hereto as **Exhibit P** is a true and correct copy of a CNN news article that  
15 quotes Jay Field, Spokesperson for the U.S. Army Corps of Engineers, dated March, 28, 2019, 9:12  
16 PM and available at <https://www.cnn.com/2019/03/28/politics/pentagon-border-wall-arizona-texas/index.html>.  
17

18           17. Attached hereto as **Exhibit Q** is a true and correct copy of an excerpt from the Fiscal  
19 Year 2020 White House Budget Request, dated March 11, 2019, available on the White House  
20 official website at <https://www.whitehouse.gov/wp-content/uploads/2019/03/budget-fy2020.pdf>.  
21

22           18. Attached hereto as **Exhibit R** is a true and correct copy of an excerpt from the Fiscal  
23 Year 2019 White House Budget Request, dated February 2018, available on the official White  
24 House website at <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf>.  
25

26           19. Attached hereto as **Exhibit S** is a true and correct copy of an excerpt from the  
27 transcript of testimony by Acting Defense Secretary Patrick Shanahan and Joint Chiefs of Staff  
28

1 Chair General Joseph Dunford, before the Senate Armed Services Committee, dated March 14,  
 2 2019, available on the Senate Armed Services Committee's official website, <https://www.armed->  
 3 services.senate.gov/imo/media/doc/19-25-03-14-19.pdf.

4           20. Attached hereto as **Exhibit T** is a true and correct copy of a transcript of "Remarks by  
 5 President Trump Before Marine One Departure," dated January 10, 2019, and available on the White  
 6 House official website at <https://www.whitehouse.gov/briefings-statements/remarks-president->  
 7 trump-marine-one-departure-30/.

9           21. Video recording of a February 10, 2019 interview of Mick Mulvaney, Acting White  
 10 House Chief of Staff, on Fox News, available at [https://www.youtube.com/watch?v=l\\_Z0xx\\_zS0M\\_](https://www.youtube.com/watch?v=l_Z0xx_zS0M_)

11           22. Video recording of testimony by Kirstjen Nielsen, Secretary of Homeland Security,  
 12 before the House Homeland Security Committee, on March 6, 2019, available at <https://www.c->  
 13 [span.org/video/?458250-1/immigration-border-security](https://span.org/video/?458250-1/immigration-border-security).

15           All of the above materials are judicially noticeable because the statements they contain "can  
 16 be accurately and readily determined from sources whose accuracy cannot reasonably be  
 17 questioned." Fed. R. Evid. 201(b)(2); *see also Cty. of Santa Clara v. Trump*, 267 F. Supp. 3d 1201,  
 18 1216-18, n.7-11 (N.D. Cal. 2017) (taking judicial notice of defendants' public statements,  
 19 government memoranda and letters, and information on government websites), *appeal dismissed as*  
 20 *moot sub nom. City & Cty. of San Francisco v. Trump*, No. 17-16886, 2018 WL 1401847 (9th Cir.  
 21 Jan. 4, 2018); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (court may take judicial  
 22 notice of "matters of public record" not subject to reasonable dispute). The Court "must take judicial  
 23 notice if a party requests it and the court is supplied with the necessary information." Fed. R. Evid.  
 24 201(c)(2).

26           All of the above materials are also judicially noticeable because "government memoranda,  
 27 bulletins, reports, letters, and statements of public record are appropriate for judicial notice." *Santa*

1       *Clara II*, 267 F. Supp. 3d at 1217, n.11 (citing *Brown v. Valoff*, 422 F.3d 926, 933 n.9 (9th Cir.  
 2 2005)); *see also Cty. of Santa Clara v. Trump* (“*Santa Clara I*”), 250 F. Supp. 3d 497, 520-23, n.5,  
 3 8, 10, 11 (N.D. Cal. 2017)(taking judicial notice of government memoranda and letter). Furthermore,  
 4 the President’s tweets, which the White House has confirmed are ““considered official statements by  
 5 the President of the United States,”” are judicially noticeable. *See Hawaii v. Trump*, 859 F.3d 741,  
 6 773 n.14 (9th Cir. 2017) (taking judicial notice of President Trump’s tweets concerning the “travel  
 7 ban” executive order), *cert. granted sub nom. Trump v. Int’l Refugee Assistance Project*, 137 S. Ct.  
 8 2080 (2017), and *vacated on other grounds*, 138 S. Ct. 377 (2017).

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 10       **Exhibits A, D, E, F, G, M, N, Q, R, S, and T** are also judicially noticeable because they are  
 11 posted to official government websites. *See Santa Clara I*, 250 F. Supp. 3d 497 at 510-23, n.2, 5, 7,  
 12 9, 10, (taking judicial notice of information and official documents contained on government  
 13 websites) (citing *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998–999 (9th Cir. 2010)).  
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1 Dated: April 4, 2019

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Respectfully submitted,

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